



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MICHAEL J. SULLIVAN
DIRECTOR

July 29, 1996
AO-96-22

Mr. Zel Levin
P.O. Box 1404
Wellfleet, MA 02667

Re: Wellfleet Democratic Town Committee

Dear Mr. Levin:

I am writing in response to your June 25 letter regarding the proposed expenditure of \$500 by the Wellfleet Democratic Town Committee ("WDTC").

You have stated that you are the former chairman of the WDTC. You resigned in 1994 and there have been no meetings during 1995 or 1996. "For all intents and purposes, the committee is defunct. There's no interest in reinvigorating the committee. However, there's a checking account in a local bank in the committee's name with about \$500 in it. . . ." You have stated that no one was on the ballot for this office in the most recent Presidential primary and that therefore no one has been elected as a current member of the town committee.

Question

You have asked if the WDTC can contribute the \$500 to a Democratic candidate's campaign.

Answer

Yes, if the committee is reorganized in accordance with M.G.L. c. 52, s. 4.

Discussion

Town Committees may contribute up to \$1,000 in money in any calendar year to a particular candidate, if the making of the contribution is consistent with the principle for which the committee was organized. M.G.L. c. 55, s. 6. The "residual funds clause" of the campaign finance law¹ specifies, however, that funds remaining in a political committee's account on dissolution of the committee must be given to a charitable or religious entity, scholarship, or the state's Local Aid Fund.

¹ See the fifteenth paragraph of M.G.L. c. 55, s. 18, which states, in part, that residual funds "shall not be converted to the personal use of the candidate or any other person" but may be donated to one of the listed entities.

Therefore, where a candidate decides to stop seeking elected office, or where a candidate's committee, PAC, people's committee, or ballot question committee dissolves, campaign funds may not be given to other candidates or committees. This office has not issued an opinion regarding whether town committees are subject to the residual funds clause.

Chapter 52 of the General Laws specifically addresses the organization of town committees. Section 4 provides that where a town committee either is not elected or fails to meet and organize as required by chapter 52 the state committee is called upon to appoint new members who then are required to call a meeting to organize the committee. Therefore, it is this office's opinion that chapter 52 does not contemplate the dissolution of such committees. Although a committee such as the Wellfleet Town Committee may be inactive, and the current members appear likely to be replaced pursuant to the process outlined in chapter 52, the committee itself is not in the process of dissolving. Rather, the members of the committee will eventually be replaced by new members.

The residual funds clause does not refer to a town committee which is inactive. The clause is part of a list of items to be included in campaign finance reports filed by candidates and committees, in general. Given the detailed statutory direction on organizing town committees provided in chapter 52, it is our opinion that the residual funds clause was not intended to prevent the making of a contribution otherwise consistent with chapter 52 and the campaign finance law, by a city, ward, or town party committee.

The funds are the property of the WDTC. Since no one was elected to the committee at the presidential primary at the March election, the only available avenue for the committee is to be reorganized by the Democratic State Committee ("DSC") in accordance with chapter 52. Once the DSC has appointed new members and called for a meeting to organize, and once a duly organized committee is functioning, the WDTC would be able to disburse the \$500 as you suggest, to a Democratic candidate. Contributions that are in the committee's account were intended by contributors to be used to support the Democratic party's candidates. Such contributions may not be disbursed, however, until members are appointed as specified in chapter 52. In addition, the Committee must file a revised Statement of Organization with OCPF and have a treasurer as required by section 5 of chapter 55.

If the committee is defunct and new members are not appointed pursuant to chapter 52, the committee's current treasurer remains responsible for filing campaign finance reports. If the treasurer wishes to resign, the remaining funds in the WDTC's account must be transferred to the DSC² and

² The DSC would then deposit the funds in its state account and report the receipt as a contribution from the WDTC.

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the treasurer must file a campaign finance report disclosing the disposition of the funds.

Finally, if you and other inactive members of the committee choose to raise and spend money to support or oppose candidates, and you are not appointed to the WDTC in accordance with chapter 52, you would be operating as a political action committee. PACs must comply with a detailed requirements established by the campaign finance law. Therefore, if you are not appointed to the reorganized WDTC, you should contact OCPF prior to raising or spending any funds.

This opinion is based solely on the representations made in your letter and is limited to providing guidance within the context of M.G.L. c. 55.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan".

Michael J. Sullivan
Director

cc: Gus Bickford
Robin Hall, Esq.